

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

REPUBLIC OF PANAMA, <i>Plaintiff and Garnishor,</i>)	
)	
)	
v.)	
)	Case No. 16-cv-3412
WELLS FARGO BANK, N.A.,)	
<i>Defendant and Garnishee, and</i>)	
)	
TRANSGLOBAL GREEN ENERGY, LLC,)	
<i>Defendant.</i>)	

APPLICATION FOR WRIT OF GARNISHMENT

TO THE HONORABLE COURT:

Plaintiff and Garnishor the Republic of Panama (“Panama”) files this Application for Writ of Garnishment pursuant to Rules 64 and 69 of the Federal Rules of Civil Procedure, Rule 658 of the Texas Rules of Civil Procedure, and Chapter 63 of the Texas Civil Practice & Remedies Code, and in support thereof states as follows.

I. INTRODUCTORY STATEMENT

1. Panama is Plaintiff in related case No. 4:16-MC-02311, Republic of Panama v. Transglobal Green Energy, LLC and Transglobal Green Energy de Panama, S.A., in the United States District Court for the Southern District of Texas, Houston Division. Pursuant to 22 U.S.C. § 1650a, Panama registered an International Centre for Settlement of Investment Disputes (“ICSID”) arbitration award in its favor in this Court on or about October 5, 2016 (the “Judgment”). See D.E. No. 1, Civil Action No. 4:16-MC-02311. That Judgment became final and executable on or about October 19, 2016. See Docket, Civil Action No. 4:16-MC-02311 (Case Closed on 10/19/2016). Panama obtained a Writ of Execution for the Judgment on or

about November 7, 2016. A true and correct copy of the certified Judgment and Writ of Execution are attached as Exhibit A to this Application.

2. Panama requested post-judgment discovery on or about October 7, 2016 to identify money and assets to satisfy the Judgment. Panama received a response that identifies a bank account belonging to one of the judgment debtors, Transglobal Green Energy, LLC (“TGGE”). A true and correct copy of that response, which is an Authorization for Refund form completed by TGGE Managing Partner Jeffrey M. Carlitz is attached as Exhibit B to this Application. Counsel for Panama received this document from TGGE counsel in response to post-judgment discovery.

3. Panama now moves to garnish that bank account in aid of execution of the Judgment against Defendant Debtor Transglobal Green Energy, LLC in related case No. 4:16-MC-02311 in accordance with Rules 64 and 69 of the Federal Rules of Civil Procedure, Rule 658 of the Texas Rules of Civil Procedure, and Chapter 63 of the Texas Civil Practice & Remedies Code.

II. PARTIES

4. Plaintiff Garnishor Panama is a foreign state. The post office and business address for Panama is Minister Dulcideo de la Guardia, Minister of Economy and Finance, Ministerio de Economía y Finanzas, Vía España, Edificio Ogawa, 3er piso, Panamá, Rep. de Panamá.

5. Defendant Garnishee Wells Fargo Bank, N.A. (“Wells Fargo”) is a foreign corporation incorporated in Delaware. Wells Fargo does business in Texas at multiple locations, including the branch office located at 1500 Waugh Drive, Houston, Texas 77019.

6. Defendant Debtor TGGE is a Texas LLC organized in Texas with its principal place of business and last-known post office address at 410 Pierce Street, Suite 233, Houston,

Texas 77002. TGGE also is Defendant in related case No. 4:16-MC-02311, Republic of Panama v. Transglobal Green Energy, LLC and Transglobal Green Energy de Panama, S.A., in the United States District Court for the Southern District of Texas, Houston Division.

III. JURISDICTION AND VENUE

7. The Court has jurisdiction over the lawsuit under 28 U.S.C. § 1332(a)(4) because Plaintiff is a foreign state and Defendants are citizens of the States of Delaware and Texas, USA and the amount in controversy exceeds \$75,000, excluding interest and costs.

8. The Court has personal jurisdiction over both Defendants because both are at home in Texas. Wells Fargo has branch offices in Houston, Texas, and TGGE's office is located in Houston, Texas.

9. Venue is proper in this district under 28 U.S.C. § 1391(b)(1) because TGGE and Wells Fargo are residents of this state.

10. Venue also is proper under 28 U.S.C. § 1391(b)(2) because a substantial part of the events or omissions giving rise to this claim occurred in this district. The Judgment was registered in the Southern District of Texas, Houston Division, in related case No. 4:16-MC-02311.

11. Venue also is proper under 28 U.S.C. § 1391(b)(2) because a substantial part of the property at issue is situated in this district. TGGE identified a Wells Fargo branch office in Houston, Texas as the location of its bank account. See Exhibit B.

IV. STATEMENT OF FACTS AND REQUEST FOR WRIT OF GARNISHMENT

12. Panama has a valid subsisting Judgment against TGGE and Transglobal Green Energy de Panama, S.A. ("TGGE Panama"), jointly and severally, in the amount of \$2,314,756.78 with interest thereon at a rate of LIBOR plus two percentage points, compounded annually, calculated from June 2, 2016 until full payment (currently 3.32840% per annum). See

Exhibit A. That Judgment was issued on June 2, 2016, and registered by this Court on October 5, 2016. See Exhibit A.

13. The Judgment became final and executable on or about October 19, 2016. See Docket, Civil Action No. 4:16-MC-02311 (Case Closed on 10/19/2016); see also FED. R. CIV. P. 62(a) (staying execution of a judgment until 14 days have passed from the entry of judgment). Panama obtained a Writ of Execution for the Judgment on or about November 7, 2016. See Exhibit B.

14. TGGE is indebted to Panama for the full amount of the Judgment. There is currently due on the Judgment the full amount, plus interest, which is uncollected, unpaid, and unsatisfied.

15. Panama has reason to and does believe that TGGE does not have in its possession in the state of Texas property subject to execution sufficient to satisfy the Judgment.

16. Panama has reason to and does believe that Wells Fargo, which does business in Harris County, Texas at branch offices located in Harris County, Texas, has in its possession effects belonging to TGGE. Specifically, on or about June 7, 2016, TGGE Managing Partner Jeffrey M. Carlitz completed an Authorization for Refund form for ICSID in which he stated that TGGE has a bank account with Wells Fargo and does business with the Wells Fargo branch located at 1500 Waugh Drive, Houston, Texas 77019. See Exhibit B.

17. This Application for Post-Judgment Writ of Garnishment is not sued out to injure or harass Wells Fargo or either of the TGGE entities.

18. Pursuant to Rule 64 of the Federal Rules of Civil Procedure, the remedies of the state of Texas are available for the seizure of property for the purpose of securing satisfaction of the Judgment. This Application is in accordance with the applicable Texas statutes and rules for

issuance of a writ of garnishment, which are set forth in Rule 658 of the Texas Rules of Civil Procedure and Chapter 63 of the Texas Civil Practice & Remedies Code.

19. Therefore, Panama requests that the Court order the Clerk to issue a Writ of Garnishment directed to Wells Fargo, in accordance with Rule 659 of the Texas Rules of Civil Procedure.

V. CONCLUSION AND PRAYER FOR RELIEF

For these reasons and on these bases, Plaintiff and Garnishor the Republic of Panama requests the Court order the Clerk to issue a Writ of Garnishment against Defendant and Garnishee Wells Fargo Bank, N.A. in aid of execution of the Judgment against Defendant Debtor Transglobal Green Energy, LLC in related case No. 4:16-MC-02311. Panama also requests any other relief to which it may be entitled.

Dated: November 17, 2016

Respectfully submitted,

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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

REPUBLIC OF PANAMA,
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WELLS FARGO BANK, N.A.,
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Case No. _____

AFFIDAVIT

THE STATE OF TEXAS §

COUNTY OF HARRIS §

BEFORE ME, the undersigned authority, on this day personally appeared Hannah Sibiski, who is personally known to me and who, upon her oath, deposed and stated the following: “I am an attorney at the law firm of Arnold & Porter LLP and counsel for the Republic of Panama. I am over the age of 21, of sound mind, and am competent to make this Affidavit. I have reviewed Panama’s Application for Post-Judgment Writ of Garnishment and the exhibits thereto. The facts stated in the Application are within my personal knowledge and are true and correct and the exhibits attached to the Application are true and correct copies of the original documents.”

Further affiant sayeth not.

HANNAH SIBISKI

SWORN TO AND SUBSCRIBED before me on this ____ day of November, 2016.

NOTARY PUBLIC

In and for Harris County, Texas

Catherine Hodges

Printed Name